

SUPREME COURT OF FLORIDA

FILED
THOMAS D. HALL

JUN 28 2002

CLERK, SUPREME COURT
BY _____

INQUIRY CONCERNING A JUDGE:
CYNTHIA A. HOLLOWAY
NO.: 00-1434

FLORIDA SUPREME COURT
CASE NO.: SC00-2226

RESPONSE TO PETITION FOR ORDER TO SHOW CAUSE

Special appellate counsel to the Judicial Qualifications Commission ("JQC") files this response to Judge Holloway's "Reply to Notice of Supplemental Authority and Petition for Order to Show Cause" and states:

Judge Holloway accuses JQC's appellate counsel of falsely stating at oral argument the reason why the JQC dropped charge 6 (the tree incident) at the close of the JQC's evidence during argument on Judge Holloway's motion for directed verdict. Judge Holloway inaccurately states that "[a]fter oral argument, [her counsel] requested clarification of these differing explanations from JQC trial counsel and appellate counsel in a letter dated June 10, 2002." (6/21/02 motion, p. 2). This letter, however, was addressed to JQC trial counsel, Betty Butchko, and did not request any explanation at all. The letter referenced JQC appellate counsel's response at oral argument and indicated this was the first time he had heard that reason for dropping charge 6. He asked Ms. Butchko to "[p]lease provide us with a copy of the return of service for Mr. Dick from the JQC hearing involving Judge Holloway." Judge Holloway's counsel copied the letter to Judge Holloway's co-counsel, Michael Rywant, and JQC appellate counsel, Lauri Waldman Ross.

Despite never asking JQC appellate counsel for any explanation, Judge Holloway now berates JQC appellate counsel for not explaining "her false statement." As requested, Ms. Butchko responded to the June 10 letter, providing the requested return of service on Mr. Dick and pertinent transcript pages. Judge Holloway incorrectly states that Ms. Butchko acknowledged that JQC appellate counsel's answer in oral argument was false. To the contrary, Ms. Butchko advised this Court that **"the JQC correctly responded that Mr. Dick was unavailable for trial."**¹ Ms. Butchko further explained that the "actual decision to drop the allegation concerning the tree incident, ... was a strategic decision based on testimony presented during the trial."

In short, Ms. Butchko confirmed the accuracy of JQC appellate counsel's response at oral argument, based on the record. JQC appellate counsel apologizes for any confusion her answer may have created. She responded truthfully, based on the information in the record. JQC appellate counsel will provide any additional information this Court deems necessary.

The remainder of Judge Holloway's motion reargues her prior motion to dismiss. The JQC stands on its earlier response.

¹The return of service for Mr. Dick notes that it was served at 3:30 p.m. on 10/4/01 and states as follows: "Mrs. Dick advised that Calvin F. Dick was not in the office that he is in and out during the day. That they were leaving town and he was not going to be available for service or trial."

Respectfully submitted,

By: 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail/fax this 26 day of June, 2002 to:

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